## BEFORE THE FEDERAL ELECTION COMMISSION

## **ENFORCEMENT PRIORITY SYSTEM** DISMISSAL REPORT

2016 MAY 26 AM 9: 11

MUR: 6831

Complaint Receipt Date: May 27, 2014

Response Date(s): July 24, 2014

Respondents:

Tom MacArthur for Congress and

Ronald Gravino as treasurer

(the "Committee")

Tom MacArthur

**SENSITIVE** 

**EPS Rating:** 

Alleged Statutory/ Regulatory Violations: 52 U.S.C. § 30120(d)(1)(B)

11 C.F.R. § 110.11(c)(3)

The Complaint alleges that candidate Tom MacArthur and the Committee (collectively, "Respondents") violated the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by airing a television advertisement that failed to fully comply with the Commission's disclaimer requirements. Specifically, according to the Complaint, the written portion of the advertisement stated that the Committee had paid for it, but failed to include a written statement of approval by the candidate. Respondents argue that the advertisement's written disclaimer was sufficient to indicate that Mr. MacArthur had authorized the advertisement. Alternatively, Respondents assert that the contents of the advertisement included enough information so that the public would not have been misled as to who had sponsored it.

The television advertisement, as described in the Complaint, included a written statement that the Committee had paid for it and an oral statement of approval by Mr. MacArthur. Thus, although it was noncompliant, the advertisement contained identifying information sufficient to indicate that Mr. MacArthur and the Committee had authorized it.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in

**EPS Dismissal Report** MUR 6831 (Tom MacArthur for Congress) Page 2 of 2

violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the other circumstances presented, we recommend that the Commission dismiss the allegations consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. Heckler v. Chaney, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.

> Daniel A. Petalas Acting General Counsel

Kathleen M. Guith Acting Associate General Counsel for Enforcement

5.26.16

Deputy Associate General Counsel

Enforcement

sistant General Counsel Complaints Examination

& Legal Administration

Attorney

Complaints Examination & Legal Administration